JURISDICTION OF THE COURTS OVER A SPECIAL TRIBUNAL CREATED BY STATUTE.—The decision recently handed down by the Supreme Court of Wisconsin, determining the contest between the Spooner and La Follette factions of the Republican party over the right to the party name, involves the question as to what jurisdiction the courts have to review the decision of a special statutory tribunal. *State* ex rel. *Cook* v. *Houser* (Wis. 1904) 100 N. W. 964. A statute provided that when there were disputes between factions within a party "the committee which had been officially certified to be authorized to represent the party" should determine which of the rival nominees were entitled to the party name. 35 Rev. St. Wis. 1898. The State Central Committee, which was found to answer the statutory description, was composed largely of office holders under the La Follette faction, and it was contended that a decision by such a tribunal could not be unprejudiced and that it was therefore null and void; but the court held that (1) bias or prejudice would not disqualify the special tribunal from acting, and that (2) as the statute did not expressly provide for a judicial review of the decision, the committee had exclusive jurisdiction over the subject matter.

At common law bias or prejudice would not disqualify a judge from rendering a decision. In re *Davis' Estate* (1891) 11 Mont. 1. He would, however, be disqualified when his decision would involve a determination of his own cause. *Dimes* v. *Grand Junction Canal Co.* (1852) 3 H. L. C. 759. But when "he has so exclusive jurisdiction of the cause or matter by the Constitution or by statute as that his refusal to act will prevent any proceeding in it, the he may act so far as that there may not be a failure of remedy, or as it is sometimes expressed, "a failure of justice." *Matter of Ryers* (1878) 72 N. Y. 1. This rule as to judges is very generally applied to special statutory tribunals. *People* ex rel. *Burby* v. *Common Council* (N. Y. 1895) 85 Hun 601. Thus, where it appears that the matter must be determined by that tribunal in order to have a determination at all, as is the fact in the principal case, interest will not vitiate the decision; *People* ex rel. *Jones* v. *Sherman* (N. Y. 1901) 66 App. Div. 231; unless it appears that the result reached could not have been arrived at by reasonable men acting in good faith. *Dawkins* v. *Antrobus* (1881) L. R. 17 Ch. D. 615; *Miller* v. *Clark* (1900) 62 Kan. 278.

The court in the principal case, however, goes further and lays down the broad doctrine that, although there was fraud or unreasonableness, the decision of the statutory tribunal is not reviewable unless there is an express provision to that effect. There is no doubt but that the courts are loath to disturb the finding of a special tribunal, and often to jusify it, take refuge in the fact that such a trial, while quasi-judicial in character, is not restricted by the rights and incidents of a common law trial. *People* ex rel. *Doherty* v. *Commissioners* (N. Y. 1895) 84 Hun 64; *State* ex rel. *Starkweather* v. *Common Council* (1895) 90 Wis. 612. Where, by the terms of the statute the decision of the special tribunal is to be final, *Randall* v. *State* (1901) 64 Ohio St. 57, the courts uniformly decline to review the decision; but, it seems well settled that they will interfere when a result is reached so unreasonable as to indicate bad faith, or actual fraud is shown.

Pollock on Torts, p. 105; *People* ex rel. *Shannon* v. *Magee* (N. Y. 1900) 55 App. Div. 195; *People* ex rel. *Miller* v. *Elmendorf* (N. Y. 1900) 51 App. Div. 173; *Miller* v. *Clark*, supra; nor does this result seem to depend upon an express statutory provision for review in such cases. In the principal case the passion attending a dispute between factions of a political party was a strong reason for ascribing to the legislature an intention to make the decision of the Central Committee final, but in the absence of evidence of such an intention it would seem that there should be a review by the courts and that the broad doctrine laid down by the court is not supported by the authorities.

THE INCEPTION OF THE RELATION OF CARRIER AND PASSENGER.—As to what facts constitute the relation of carrier and passenger, so as to necessitate on the part of the carrier, not only freedom from negligence, but the highest practicable degree of care, is frequently a difficult question of law. One who enters the station of a railroad a reasonable time before his train leaves, with the bona-fide intention of entering into a contract of carriage, is a passenger whether or not he has purchased a ticket, *Gordon* v. *Railroad* (N. Y. 1863) 40 Barb. 546, and even though the ticket agent refuses to sell him a ticket. *N. & W. R. Co.* v. *Gallagher* (1893) 89 Va. 639. Where one was on the way to the station in the omnibus of a railroad company, such a relation was held to have arisen. *Buffett* v. *T. & B. R. Co.* (1869) 40 N. Y. 168. On the other hand, the mere purchase of a ticket and the intention to take a train will not demand of the railroad the extraordinary care due to passengers. *Illinois Cent. R. Co.* v. *O'Keefe* (1897) 168 Ill. 115. In the law of street railways, the relation commences the moment one touches the car, *Davey* v. *Greenfield St. Ry.* (1900) 177 Mass. 106, and an instruction that if the car had stopped, and the plaintiff was "in the act of carefully and prudently attempting to step upon the platform, he is to be regarded as a passenger," was held to be correct. *Smith* v. *St. Paul City Ry. Co.* (1884) 32 Minn. 1. But where the driver on a car answered affirmatively the plaintiff's signal to stop, the mere fact that there was an intention on both sides to enter into a contract of carriage, was not sufficient to create the relation. *Donovan* v. *Hartford St. Ry. Co.* (1894) 65 Conn. 231. Between these cases is one lately decided by the Supreme Judicial Court of Massachusetts. *Duchemin* v. *Boston El. Ry. Co.* (1904) 71 N. E. 780, where it was held that the plaintiff, who was approaching a street-car which had stopped to receive him, was not entitled to the rights of a passenger before he had reached the car.

There is no conflict among the courts as to the relation in the above cases; but it is difficult to find the theory underlying the decisions. In *Farley* v. *Cincinnati H. & D. R. Co.* (1901) 108 Fed. 14, the relation is said to be based on contract. See also *Illinois Cent. R. Co.* v. *O'Keefe*, supra. This contract is implied from very slight circumstances. Thus, those who by the implied assent of the carrier are in the waiting-room, on the passenger car, or in the act of mounting the car steps are passengers, as their acts are presumed to be known to the carrier. It is undoubted that a man becomes a